



**US Army Corps
of Engineers**
Kansas City District

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News Release

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Date: Nov. 30, 2005

For immediate release

Moniteau County enters consent decree on violations of the Clean Water Act

KANSAS CITY, Mo. – The Kansas City District U.S. Army Corps of Engineers announces the resolution of a Clean Water Act suit against Moniteau County brought by the federal government. Specifically, the government alleged that Moniteau County and its Commissioners violated Section 404 of the CWA by conducting improper in-stream gravel mining and bank stabilization activities without a permit from the Corps. The Corps determined that the methods employed by Moniteau County resulted in damage to the aquatic ecosystem and that the materials used for bank stabilization, including gravel and fines from the gravel mining, were unsuitable as they would not withstand expected erosional flood forces.

The consent decree, entered Thursday November 17, 2005 in U.S. District Court in Kansas City, settles the government's complaint for the gravel mining and bank stabilization activities in Little Moniteau Creek and Splice Creek. This case was handled by the Department of Justice on referral from the Corps of Engineers.

Mark Frazier, regulatory program manager/assistant branch chief for the Kansas City District, said the consent decree works toward the goal of the CWA: "To restore and maintain the chemical, physical, and biological integrity of the nation's waters." The mitigation provision of the consent decree will provide for protection of water quality while at the same time providing the citizens of Moniteau County with more reliable stream crossings.

The provisions of the consent decree include:

- Moniteau County and its contractors are permanently enjoined from the use of earth-moving equipment or other heavy machinery in streambeds, below the ordinary high water mark, for gravel mining or bank stabilization without a CWA permit.
- For a five-year period, Moniteau County must provide advance notification to the Corps for any in-stream gravel mining or bank stabilization activity in the County.
- Moniteau County must, in cooperation with the Corps of Engineers, establish an employee education and training program.
- In lieu of paying a penalty, Moniteau County must expend \$20,000 to \$25,000 to replace existing unimproved fords of streams with at-grade hardened crossings.
- Moniteau County must obtain landowner permissions for Corps entry on private lands where the County is conducting activities, so that the Corps may perform compliance inspections.
- Moniteau County must monitor and provide reports on the Splice Creek bank stabilization structures, and initiate corrective action if the structure begins to fail.

Under federal law, Frazier explained, the Corps is authorized to issue permits for discharges of dredge or fill material into waters of the United States.

“This balanced resolution is representative of the Corps’ Regulatory Program mission to provide the regulated public with fair and reasonable decisions,” Frazier said. “The provision for establishment of an education and training program, along with other coordination provisions of the decree will establish a framework for cooperation between the Corps and Moniteau County that will prevent future violations.”

The Corps invites any other county governments to consider embarking on a similar voluntary cooperative relationship to prevent CWA violations and allow for efficient permit determinations when work in the nation's waters is necessary.

The Corps has an existing General Permit (GP) that allows for sustainable in-stream gravel mining while protecting water quality, stream bank and bed stability and the aquatic ecosystem. The Corps also has a Nationwide Permit (NWP) that authorizes many bank stabilization measures including rock, gabion or cedar-tree revetments. GPs and NWPs are created to allow for efficient approval for common activities designed to have minimal adverse impact on the aquatic environment.

The consent decree is available at: <http://www.usdoj.gov/usao/mow/news2005/moniteau.pdf>
More information about the U.S. Army Corps of Engineers Regulatory Program is online at: <http://www.nwk.usace.army.mil/regulatory/regulatory.htm>